

### **REMARKS**

The Office Action of September 26, 2003 has been reviewed and the comments therein were carefully considered. By this response, Applicants have amended claims 2-3, 10-12, 17-19, 23-34, and 44-48. In addition, Applicants have canceled claims 1, 4-9, 13-16, 22, 37-43, and 51-60. No new matter has been introduced into the application. Allowance of the instant application is respectfully requested.

#### **Claim Objection**

Claim 58 stands objected to because of the following informalities: "catheter" is missing a preceding pronoun such as -the-or-said-. Claim 58 has been canceled rendering the objection moot.

#### **Rejections under 35 U.S.C. § 112**

Claims 5, 7, 17-21, 27-36 and 44-50 stand rejected under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5 and 7 have been canceled in the current response and independent claims 17, 27, and 44 have been amended. Based on the amendments, Applicants respectfully request withdrawal of the rejection in view of the Amendments.

#### **Rejections under 35 U.S.C. § 102**

Claims 1-3, 9-12, 14, 17-30, 35-36, 51-54 and 59-60 stand rejected under 35 U.S.C. 102 (b) as being anticipated by the Ward patents (US Patent #s 5,713,923 and 5,978,702).

Of the rejected claims, claims 2-3, 10-12, 17, and 23-27 have been amended. In addition,

claims 1, 9, 14, 22, 51-54, and 59-60 have been canceled. Of the rejected claims only amended claims 2, 11, 17, 23, and 27 are independent claims.

With regard to independent claim 2, the Ward patents fail to disclose at least the claimed feature of “a solid catheter tip” (Emphasis added). Neither of the Ward patents discloses the claimed solid catheter tip feature of the present invention. In contrast to the claimed invention, the Ward patents disclose a hollow tube 22A having an open distal end 25 that contains microporous portions 27-29 and stimulation electrodes 38 and 40. The claimed solid catheter tip of the present invention prevents therapeutics from exiting the lumen of the catheter. Therefore, for at least this reason, it is respectfully submitted that independent claim 2 is in condition for allowance.

In addition to the above, independent claim 2 is allowable over both Ward patents for at least another reason. Independent claim 2 also includes the claimed feature of “the microporous membrane section comprising, a first end and a second end, the first end and the second end coupled to the solid sections . . .” (Emphasis added). Neither of the Ward patents discloses this claimed feature of the present invention. The only discussion of microporous portions in the Ward patent specification appears at Column 4, lines 24-33 (‘702 Patent) and Column 4, lines 18-26 (‘923 Patent), which does not discuss this feature.

In addition, Figure 6 of the Ward patents does not disclose the claimed feature of “the microporous membrane section comprising, a first end and a second end, the first end and the second end coupled to the solid sections . . .” As shown in Figure 6 of the Ward patents, both ends of microporous portion 29 are not “coupled to the solid sections.” Therefore, for at least this additional reason, it is respectfully submitted that independent claim 2 is patentably distinct over both Ward patents.

Independent claims 11 and 23 also include the claimed feature of "a solid catheter tip." Claims 11 and 23 are patentably distinct over the Ward patents for at least the same reason as independent claim 2. Therefore, Applicant respectfully submits that claims 11 and 23 are in condition for allowance. Dependent claims 3, 10, 12, and 23-26 which ultimately depend from independent claims 2, 11 and 23, are allowable for at least the same reason as independent claims 2, 11 and 23.

Both independent claims 17 and 27 include the claimed feature of "a manifold having an entrance end and exit opening . . . ." Neither of the Ward patents discloses this claimed feature. In addition, the Office Action does not address this claimed feature in the rejection. Therefore, for at least this reason, Applicant submits that independent claims 17 and 27 are patentably distinct over both Ward Patents. Dependent claims 18-21, and 28-36 which ultimately depend from independent claims 17 and 27 are allowable for at least the same reason as independent claims 17 and 27.

Claims 4-7, 9-10, 13-18 are rejected under 35 U.S.C. 102 (e) as being anticipated by Deniega, et al (US Patent # 6,350,253 B1).

Of the rejected claims, claims 10 and 17 have been amended. In addition, claims 4-7, 9, 13-16 have been canceled. Of the rejected claims only amended claim 17 is an independent claim.

With regard to independent claim 17, the Deniega patent fails to disclose the claimed feature of "a manifold having an entrance end and exit opening . . . ." In addition, the Office Action does not address this claimed feature in the rejection. Therefore, for at least this reason, Applicant submits that independent claim 17 is patentably distinct over the Deniega patent. Dependent claims 18-21 which ultimately depend from independent claim 17 are allowable for at least the same reason as independent claim 17.

**Rejections under 35 USC § 103**

Claims 8 and 12 are rejected under U.S.C. 103(a) as being unpatentable over Deniega.

In this response, Applicant has canceled claims 8 and 12 rendering the rejection moot.

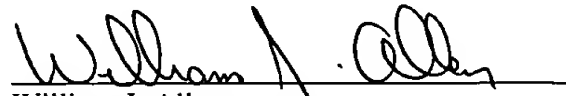
Claims 31-34, 37-50 and 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Deniega. Of the rejected claims, claims 37-43 and 51-58 have been canceled. In addition, claims 31-34 depend from independent claim 27 and are allowable for at least the same reason as independent claim 27.

With respect to independent claim 44, neither the Ward patents nor Deniega disclose, teach, or suggest the claimed feature of "a manifold having an entrance and exit opening." Therefore, for at least this reason, Applicant respectfully submits that independent claim 44 is in condition for allowance. Dependent claims 45-50 which ultimately depend from independent claim 44 are allowable for at least the same reason as independent claim 44.

Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner believe that a conversation with Applicant's representative would be useful in the prosecution of this case, the Examiner is invited and encouraged to call Applicant's representative.

Respectfully submitted,

Dated: December 29, 2003

  
\_\_\_\_\_  
William J. Allen  
Registration No. 51,392

BANNER & WITCOFF, LTD.  
10 South Wacker Drive  
Chicago, Illinois 60606  
Telephone: (312) 463-5000  
Facsimile: (312) 463-5001